SWANDER SINGH A/L BAWA SINGH

v.

PUBLIC PROSECUTOR

HIGH COURT MALAYA, PENANG
TUAN T. SELVENTHIRANATHAN JC
[CRIMINAL APPEAL NO. 41-319-93]
3 JULY 1994

CRIMINAL PROCEDURE: *Charge of being in possession of heroin - Accused pleading guilty - Convicted and sentenced - Appeal against decision - Consideration of s. 173 of the Criminal Procedure Code - Procedure to be followed in summary trials by Magistrates on a guilty plea.*

The accused pleaded guilty to a charge of being in possession of heroin in contravention of s. 12(2) of the Dangerous Drugs Act 1952 (the Act). The accused initially appealed against his conviction and sentence. On appeal the learned Judge found certain unsatisfactory features of the proceedings in the Magistrates' Court and intimated that the accused should be retried. However the accused promptly withdrew his appeal against conviction on the grounds that he had already served more than one-third of his sentence and only wished the Court to reduce his sentence.

In the event the learned Judge went on to consider the procedure which is to be followed in summary trials by Magistrates as provided for under s. 173 of the Criminal Procedure Code (the CPC)

Held:

[1] The offence with which the appellant was charged was a serious one which brought in its wake serious consequences for the appellant. Therefore, before any sentence could be imposed on the appellant, the Court had to first find that the appellant had contravened the provisions of s. 12(2) of the Act which made him guilty of an offence against the Act and liable to the enhanced punishment provided under s. 39(1) thereof.

[2] As the appellant did not mention his possible defence of being framed in the proceedings before the learned Magistrate, the learned Magistrate was correct in not rejecting his plea of guilty. However the learned Magistrate erred in not recording that the appellant admitted the facts without qualification and also in not recording that he found the applellant guilty and convicted him of the offence of which he was charged.

[3] Furthermore, the statement of facts tendered by the prosecution did not show how the appellant was in possession of the heroin in question. In these circumstances it would have been helpful if the police report which was lodged upon the arrest of the appellant had been tendered as an exhibit as it may have explained in what manner the appellant was alleged to have been in possession of the heroin. The use of a standard cyclostyled form to adduce the facts of the case, as was done here, is not to be encouraged. A tendering of the facts to suit the particular circumstances of the case where a serious charge is preferred is not only essential but a failure to do so strikes at the very basis of justice that a person should not be punished for an offence of which he has not been found guilty.

[4] In the circumstances, although the appellant had seven previous convictions, six of which involved offences of being in possession of dangerous drugs, in view of the unsatisfactory features of the proceedings in the lower Court, the appellant's sentence should be reduced from three years imprisonment with whipping of three strokes to two years imprisonment with whipping of three strokes.

[Orders accordingly].

Cases referred to:
PP v. He King Kiok & Anor. [1992] 2 MLJ 781 ***(foll)***
Chen Chong & Ors. v. PP [1967] 2 MLJ 130 ***(refd)***
Heng Kim Khoon v. PP [1972] 1 MLJ 30 ***(refd)***
PP v. Margarita B Cruz [1988] 1 MLJ 539 ***(refd)***

Legislation referred to:
Courts of Judicature Act 1964, ss. 31, 35, 36
Criminal Procedure Code, ss. 173 (a), (b), (m)(2), 173A, 178(ii), 294
Dangerous Drugs Act 1952, ss. 12(2), (3), 39A(1), (2)
Dangerous Drugs Ordinance 1952, ss. 9(1)(b), 10(2)(a)

Other source referred to:
Mallal's Digest, Vol. 5, 4th Edn.

For the appellant - in person
For the respondent - Ahmad Fairuz bin Dato Zainol Abidin, DPP

JUDGMENT

T. Selventhiranathan JC:

The appellant, Swander Singh a/l Bawa Singh ("the appellant" or "the accused" used interchangeably as the context may require) was arrested on 7 June 1993 and first charged in the Sessions Court at Georgetown on 12 June 1993 with being in possession of 11 grammes of heroin on 7 June 1993 at about 3.05 pm in front of a coffeeshop at Hutton Lane, in the district of Georgetown, in the State of Penang, in contravention of s. 12(2) of the Dangerous Drugs Act 1952 ("the Act") and having thereby committed an offence punishable under s. 39A(2) of the Act.

The notes of proceedings recorded in the Sessions Court indicate that he pleaded guilty to the charge whereupon the case was adjourned to 13 August 1993, and then further adjourned to 17 September 1993 for the adducing of the facts of the case and sentencing as the chemist's report of the analysis of the drug seized from the appellant was not ready yet for production in Court on 13 August.

On 17 September 1993 the charge was amended to one of being in possession of 2.99 grammes of heroin in contravention of s. 12(2) and thereby having committed an offence punishable under s. 39A(1) or the Act.

The appellant pleaded guilty to this amended charge and the notes of proceedings indicate that he understood the nature and consequences of his plea. The prosecution then applied for the case to be transferred to the Magistrate's Court (presumably because the case had now become triable by a Magistrate by reason of the lower heroin content of the subject-matter of the charge) and the presiding Sessions Court Judge made an order to that effect. The appellant's plea was then taken again the same day on the amended charge in the Magistrate's Court whereupon the Magistrate adjourned the case to 30 September 1993 for disposal.

The notes of proceedings recorded on 30 September 1993 show that the charge was read and explained to the appellant, that he understood the charge and pleaded guilty to it, and that he understood the nature and consequences of his plea. The notes then show that the facts of the case were tendered as Exhibit P1, 2.99 grammes of heroin were tendered as Exhibit P2 and the chemist's report was tendered as Exhibit P3. This was followed by the recording of the plea in mitigation, of the tendering of the record of the previous convictions of the appellant as Exhibit P4, and of the imposition of the sentence of imprisonment of three years from the date of arrest and three strokes of whipping.

The facts of the case were adduced in Exhibit P1 on a standard cyclostyled sheet of paper with the blanks filled in as follows (the portions emphasised being the blank spaces with the details filled in):

> Keterangan kes: 83(93) 526/93
>
> H/Quarters No. Repot: 2254/93 Aduan di dalam kes ini ialah: DPC Mat Halim pada: 7 June 1993 jam lebih kurang: 3.05pm aduan berjumpa dengan yang dituduh di: hadapan kedai kopi No 100B Jalan Hutton dan ditahan diperiksa didapati dan dijumpai barang-barang yang dimiliki tersebut:
>
> (a) [illegible] 1 paket plastik heroin
>
> (b) ...
>
> (c) ...
>
> (d) ...
>
> yang dituduh ditangkap dan repot dibuat. Barang-barang tersebut dihantar ke pejabat kimia untuk diperiksa/dianalisakan dan didapati:
>
> (a) [illegible] 2.99 gm heroin
>
> (b) ...
>
> (c) ...
>
> (d) ...
>
> yang dituduh tidak berhak menyimpan dadah tersebut.

The chemist's report (Exhibit P3) confirmed that 10.72 grammes (nett) of an orange granular/powdery substance which the chemist received and analysed was found to contain 2.99 grammes of heroin, which is a dangerous drug listed in the First Schedule to the Act.

The appellant filed his notice of appeal the following day against the sentence (of three years' imprisonment with effect from the date of arrest and whipping of three strokes) passed on him by the learned Magistrate. By his petition of appeal dated 19 January 1994, the appellant raised the following grounds of appeal (reproduced here without corrections in grammar, spelling or punctuation):

> (1) As of the police report 2254-93. It is not logic because no man who have been in and out of prison will hold a packet of heroin in his hand and stand in front of a coffeeshop in that busy Hutton Lane for the police to catch him.
>
> (2) A packet of heroin weighing 11 grams at the time of charging would never be 2.99 grams after analysis, there are many technical errors. Yet I did not fight the case because being having past record and being a poor man without Counsel. I wouldn't have won the case.

(3) I sincerely have been a victim of circumstances at the time and place, therefore my conscience is bothering me day and night. With the suffering of my family members as there is no breadwinner. The eldest male in the family had passed away a few days before my sentence.

(4) I have suffered a lot in the past and regret very much. I am old (40+) and handicapped and now having to shoulder the family burden after the death of my father. Hereby I beg the Court to give me a change and reduce my sentence for the sake of my family and my physical health.

The appellant prayed that the sentence be set aside or reduced.

At the hearing of the appeal on 30 June 1994, the appellant pleaded for a reduction of the sentence and reiterated the grounds set out in his petition of appeal. In elaboration of the first ground, he claimed that he was not holding the packet of heroin in question in his hand but that the policeman who arrested him had picked it up from the drain and put it in his hand and told him that the heroin belonged to him. He further said that in view of his past record it was pointless for him to plead not guilty as nobody would have believed him, and he also did not have the means to engage Counsel to defend him.

In view of the first three grounds in his petition of appeal and his elaboration thereof in Court, I asked the appellant why he had pleaded guilty to the original charge as well as the amended charge, why he had maintained that plea throughout the proceedings in the lower Courts until he was sentenced and why he had not raised before the learned Magistrate the defence that he was now raising for the first time before me. However, in view of certain unsatisfactory features of the proceedings in the Magistrate's Court, with which I shall deal later, I indicated to the appellant that I was prepared to exercise my powers of revision under chapter XXXI of the Criminal Procedure Code ("the CPC") and under ss. 31, 35 and 36 of the Courts of Judicature Act 1964 and set aside the sentence passed on him and order a retrial. The appellant, however, pleaded with the Court not to order a retrial as he had been in custody since his arrest on 7 June 1993 and had served more than one year of his sentence. He thereupon withdrew those grounds in his petition of appeal which detracted from his having committed the offence of which he was charged and he only wished the Court to reduce his sentence.

I shall now deal with what I consider to be the unsatisfactory features of the proceedings in the Magistrate's Court. Chapter XIX of the CPC prescribes the procedure which is to be followed in summary trials by Magistrates. Paragraphs (a) and (b) of s. 173 in Chapter XIX of the CPC read:

The following procedure shall be observed by Magistrates in summary trials:

(a) When the accused appears or is brought before the Court a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

(b) If the accused pleads guilty to a charge whether as originally framed or as amended the plea shall be recorded and he may be convicted thereon: provided that before a plea of guilty is recorded the Court shall ascertain that the accused understands the nature and consequences of his plea and intends to admit, **without qualification**, the offence alleged against him. (Emphasis added).

In order to comply with the proviso to para. (b) of s. 173, the facts of the case should be adduced and they should point unequivocally to the commission by the accused of the alleged offence. Paragraph (b) of s. 173 has to be read in conjunction with para. (m)(2) of that section which reads:

> (m)(2) If the Court finds the accused guilty or if a plea of guilty has been recorded and accepted the Court shall pass sentence according to law.

Paragraph (m)(2) enables the Court to pass sentence according to law only after the plea of guilty has been recorded and **accepted** (emphasis added). The process of the Court ascertaining that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him necessarily entails the Court embarking upon an examination of the facts of the case to satisfy itself that the offence alleged against the accused is proved. Only then can the Court proceed to the next stage which involves accepting the plea of guilty and sentencing the accused. The Court can only accept the plea of guilty after the accused has admitted the facts alleged against him without qualification, and the facts disclose that he has committed the offence with which he is charged.

The acceptance by the Court of the plea of guilty is signified by recording in the notes of proceedings that the facts are admitted without qualification, that the plea of guilty is accordingly accepted by the Court and that the accused is found guilty and convicted as charged.

However, I hasten to add that should the Court intend to act under s. 173A of the CPC to dismiss the charge or complaint after such admonition or caution as to the Court seems fit or to discharge the offender conditionally on his entering into a bond to be of good behaviour and to appear for the conviction to be recorded and for sentencing when called upon at any time during such period, not exceeding three years, as may be specified in the order, the Court shall record that it finds that the charge is proved but it shall not proceed to record a conviction. In all other cases, including those in which the Court intends to act under s. 294 of the CPC, it shall record a conviction.

In the present appeal, the learned Magistrate failed to record that the appellant admitted the facts (Exhibit P1) and admitted being in possession of the heroin (Exhibit P2), and that he did so without qualification. It is also noted that the cyclostyled statement of facts tendered by the prosecution (reproduced above) did not show how the appellant was in possession of the heroin in question. In these circumstances it would have been helpful if the police report which was lodged upon the arrest of the appellant had been tendered as an exhibit as it may have explained in what manner the appellant was alleged to have been in possession of the heroin.

The offence with which the appellant was charged carries with it, upon being found guilty and convicted, punishment with imprisonment for a term of not less than two years and not more than five years, and with whipping of not less than three strokes and not more than nine strokes. It was clearly a serious charge which brought in its wake serious consequences for the appellant. Therefore, before any sentence could be imposed on the appellant, the Court had to first find that the appellant had contravened the provisions of s. 12(2) of the Act (which proscribes being in possession, or having custody or control, of a dangerous drug to which that section applies) which made him guilty of an offence against the Act and liable to the enhanced punishment provided under s. 39A(1) thereof (see ss. 12(2), 12(3) and 39A(1) of the Act which speak of a person **contravening** the specified provisions of the Act being **guilty** of an offence against the Act). It is therefore clear beyond peradventure that an

accused person must be found guilty and convicted of the offence with which he has been charged (except where the Court intends to act under s. 173A of the CPC in which event it shall record that the charge is proved) by a Court of competent jurisdiction before sentence can be passed upon him according to law.

I had occasion to consider the procedure the Court should follow upon a plea of guilty to a charge which carries with it the mandatory death penalty in the case of *PP v. He King Kiok & Anor.* [1992] 2 MLJ 781. That case was upheld on appeal by the Supreme Court. The procedure adopted in the High Court in that case may, with the necessary modifications, serve as a guide to Magistrates and Judges of Sessions Courts in serious cases, especially where the Court has to impose any mandatory term of imprisonment provided by law, as in the present appeal. For ease of reference I reproduce below the following extract of the grounds of judgment in that case from pp. 783 to 786 of the report:

> On the adjourned date, the Court was ready to commence the trial and in accordance with s. 178(i) of the Criminal Procedure Code ("the Code"), the charge was read and explained to both accused through the interpretation of the Chinese interpreter. They each acknowledged that they understood the charge. The first accused claimed trial. The second accused pleaded guilty.
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> At this juncture I questioned the second accused as to whether he was aware of the nature and consequences of his plea of guilty. It was explained and interpreted to him in clear and unequivocal terms that the Court could not pass any sentence on him in this case on a plea of guilty other than the mandatory death sentence as provided by law. This was repeatedly explained and emphasized. However, the second accused was inexorable in his resolve to plead guilty. When questioned further, he stated that he was fully aware of the nature and consequences of his plea of guilty, and that he so pleaded of his own free will and without being influenced to do so in any way. After further repeated questioning, I was fully satisfied that his plea of guilty was unequivocal and made of his own volition and I accepted it as such. I did not, however, immediately proceed to find him guilty and convict him thereon as provided by s. 178(ii) of the Code. Instead, I first read the statement of facts provided by the prosecution, and after being satisfied that the facts alleged constituted the offence as contained in the charge, I then proceeded, in accordance with accepted practice, to have the statement of facts read and explained to the second accused.
>
> It has become accepted practice or a salutary unwritten rule of criminal procedure in Malaysia and in other common law jurisdictions for the Court to require, in serious cases, an outline or a statement of the facts of the case to be provided by the prosecution so as to satisfy itself that the ingredients of the charge are met and, in the words of Hashim Yeop A Sani CJ (Malaya) in the case of *Tang Hee Hing v. PP* [1991] 1 MLJ 402 at p. 404 '... that the accused agrees to all the ingredients of the offence and all the averments in the charge', notwithstanding his plea of guilty and even though the Code does not specifically require an outline or a statement of the facts of the case to be given in such circumstances. However, s. 173 in Chapter XIX of the Code, which deals with summary trials by Magistrates, provides, *inter alia*:
>
> (a) When the accused appears or is brought before the Court a charge containing the particulars of the offence of which he is accused shall be framed and read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.
>
> (b) If the accused pleads guilty to a charge whether as originally framed or as amended the plea shall be recorded and he may be convicted thereon: **provided that before a plea of guilty is recorded the Court shall ascertain that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him** (emphasis added).
>
> ...

(m)(1) ...

(2) If the Court finds the accused guilty or if a plea of guilty has been recorded and accepted the Court shall pass sentence according to law.

...

... In the case of a summary trial before a Magistrate, the proviso makes it mandatory for the Court, before recording a plea of guilty, to ascertain that the accused understands the nature and consequences of his plea and intends to admit, without qualification, the offence alleged against him. In these circumstances, it can be said that the Court can only **ascertain** this (emphasis added) after being apprised of the facts of the case and it is therefore a necessary corollary of the proviso to set out an outline or a statement of the facts of the case to satisfy the requirements of the proviso.

...

The basis for the accepted practice or unwritten rule of criminal procedure in Malaysia for the Court to require, in serious cases, an outline or a statement of the facts of the case to be provided before recording and accepting a plea of guilty and convicting the accused thereon may be traced to s. 5 of the Code which in its original form read:

> As regards matters of criminal procedure for which no special provision has been made by this Code or by any other law for the time being in force the law relating to criminal procedure for the time being in force **in the Colony** shall be applied so far as the same shall not conflict or be inconsistent with this Code and can be made auxiliary thereto.

Section 5 of the Criminal Procedure Code of the then Colony of Singapore provided in turn in similar circumstances for 'the law relating to criminal procedure for the time being in force **in England**' to be applicable in the Colony. The reference in s. 5 of our Code to the law relating to criminal procedure in "the Colony" was substituted with a reference to "the Republic of Singapore" *vide* the Criminal Procedure Code (Amendment) Act 1967 (Act No 25 of 1967), which came into force on 1 June 1967. However, this circuitous mode of referring to the law relating to criminal procedure for the time being in force in England through the Criminal Procedure Code of Singapore was done away with and substituted with a direct reference to such law in England *vide* the Criminal Procedure Code (Amendment and Extension) Act 1976 (Act A324), which came into force on 10 January 1976.

In England, the law relating to criminal procedure requires the prosecution to state the facts in open Court upon a plea of guilty. To quote from Vol. 11(2) of *Halsbury's Laws of England* (4th Edn., reissue) at para. 977:

> An accused must have a free choice of plea; he is not to be taken to admit an offence unless he **pleads guilty** to it **in unmistakable terms with appreciation of the essential elements of the offence ...** (emphasis added). An accused must himself plead; it is not sufficient for his Counsel to plead on his behalf or to indicate that the accused wishes to plead guilty. **In the case of an unrepresented accused, care must be taken to ensure that he fully understands the elements of the offence to which he is pleading guilty, and this is particularly the case where a possible defence is disclosed** in the witness statements or depositions (emphasis added for the purpose of the present appeal) ...
>
> The public has a right to know the circumstances of the commission of an offence and upon a plea of guilty the prosecution should thereupon state the facts in open Court. (Practice Direction [1968] 3 All ER 434)

It has come to my notice in a number of appeals and revisions that Magistrates as well as Judges of Sessions Courts have omitted to follow the procedure set out in the CPC (and elaborated further through case-law) in instances where accused persons had pleaded guilty before them to serious charges. Although there had usually been a record to the effect that the charge was read and explained to and understood by the accused (represented by the abbreviations "CREU"), that the accused pleaded guilty to the charge (represented by the abbreviations "PG") and that he understood the nature and consequences of his plea (represented by the abbreviations "UNCP"), or in Bahasa Malaysia by the words "pertuduhan dibaca, diterang dan difahami, mengaku salah, faham segala akibat pengakuan" (represented by the abbreviations "TBTF/MS/FSAP"), yet it was only in some cases that facts were adduced. In others, only the report of the complainant was tendered, and in still some others neither facts were adduced not was the report of the complainant tendered as an exhibit. There were also instances where the Courts had also failed to record that the facts were admitted (when adduced) and that the offence was proved or the accused was found guilty and convicted, as the case may be, resulting in the High Court having to exercise its powers of revision to legalise the sentences passed. This is because, as was pointed out earlier, before the Court can pass sentence, it has to first find the offence proved or find the accused guilty and convict him on the charge to show that every essential ingredient of the offence has been alleged against the accused and admitted by him. There is a plethora of decisions on the matter which are summarised in Vol. 5 of *Mallal's Digest*, 4th Edn., on Criminal Procedure under the subject "plea of guilty".

For the guidance of Magistrates and Judges of Sessions Courts, further useful reference may be made to the cases of *Chen Chong & Ors. v. PP* [1967] 2 MLJ 130, *Heng Kim Khoon v. Public Prosecutor* [1972] 1 MLJ 30 and *PP v. Margarita B Cruz* [1988] 1 MLJ 539. In *Chen Chong & Ors. v. PP*, Raja Azlan Shah J (as HRH the Sultan of Perak then was) spelt out the procedure to be followed upon a plea of guilty in the following succinct terms:

> The provisions of s. 173(b) of the Criminal Procedure Code seem to establish the salutary rule that before a Court records a plea of guilty in reply to the common form question asking the accused to plead, it is necessary for the Court as a matter of discretion to consider whether it is safe to accept the plea. The Court can do that, firstly, by considering each and every ingredient of the charge: secondly, by satisfying itself by questioning the accused whether he really understands the charge and intends to admit without qualification each and every ingredient that constitutes it: and finally that he clearly understands the nature and consequences of his plea. The Court then records the facts as presented by the prosecuting officer to ascertain whether admission of the facts amounts to a plea of guilty in law. **Details attention to the facts to be recorded must obviously depend on the nature of the charge and the seriousness of the case** (emphasis added). If the facts establish the offence charged, the accused is asked whether he admits such facts. If he does admit, then the Court records the plea and proceeds to consider the question of sentence. Once the accused is sentenced, then the plea ranks as a conviction. The plea must be an unequivocal plea of guilty. It is important that there should be no ambiguity in the plea. If there are elements in the case which indicate that the accused is really trying to plead not guilty or, as Lord Goddard put it, 'Guilty, but ...', then the Court has no discretion but to record a plea of not guilty.

In *Heng Kim Koon v. PP*, the accused pleaded guilty to two charges against him under ss. 9(1)(b) and 10(2)(a) of the Dangerous Drugs Ordinance 1952. He admitted the facts adduced but in mitigation stated that the exhibits were not his and that they had been left behind by a friend. In spite of what the accused said, the learned President of the Sessions Court found him guilty and convicted him on the two charges. Upon appeal, Sharma J acted in revision and held:

(1) proof of 'possession' is the very essential ingredient of the offences under the Dangerous Drugs Ordinance 1952;

(2) a plea of guilty only amounts to an admission if the accused committed the act alleged against him and not an admission of the guilt under a particular section of the Ordinance. If he pleads guilty under an erroneous view of the law, his conviction cannot stand. In such a case, the plea of guilty does not avail because he cannot be said to have committed the offence in question in the eyes of the law;

(3) therefore, the appeal was allowed and the case sent back for retrial before another president.

His Lordship then went on to explain what the duty of the Court was upon a plea of guilty.

> ... A plea of guilty may be accepted by the Court and the accused convicted on it, but the Court is not bound to accept a plea of guilty in all cases. The Court must carefully consider whether the accused has fully understood the nature of the charge to which he pleads guilty. The accused is not to be taken at his word when he pleads guilty unless the plea is expressed in unmistakable terms with full appreciation of the essential ingredients of the offence. This rule of law is applied with all the greater stringency when the offence charged is complicated or serious.

In the present appeal, it was only before me that the appellant raised his defence of being framed, saying that nobody would have believed him if he had stated otherwise in the lower Court in view of his past proclivities. Nothing was mentioned of this possible defence in the proceedings before the learned Magistrate. In the circumstances, the learned Magistrate was correct in not rejecting his plea of guilty. However, he erred in not recording that the appellant admitted the facts without qualification and also in not recording that he found the appellant guilty and convicted him of the offence of which he was charged. It was also desirable for the prosecution to have stated in the facts (Exhibit P1) as to in what manner the appellant was in possession of the heroin in question. The use of a standard cyclostyled form to adduce the facts of the case, as was done here, involving a serious charge embodying the sometimes complicated issue of possession without giving sufficient particulars is not to be encouraged. I am not unappreciative of the fact that the subordinate Courts these days face amounting deluge of cases calling for speedy disposal. However, I am of the view that a tendering of the facts tailored to suit the particular circumstances of the case where a serious charge is preferred is not only essential but that a failure to do so strikes at the very basis of justice that a person should not be punished for an offence of which he has not been found guilty. In these days of computerisation where virtually all government departments are equipped with computers, it would not be difficult for the prosecution to modify the standard fact sheet to suit the circumstances of each individual case and adduce facts showing exactly how the accused person has contravened a provision of the law. In my view, such a practice will not in any way detract from the speedy disposal of cases where accused persons plead guilty to serious charges.

In the present appeal, as the appellant had not raised before the learned Magistrate his purported defence of being framed and as he withdrew this ground of appeal before me and pleaded that a retrial not be ordered, I asked him if he had any objection to my finding him guilty and convicting him of the offence charged. He had none. Acting in revision, I recorded a finding of guilt and conviction against the appellant. The appellant no doubt had seven previous convictions which he admitted, six of which involved offences of being in possession of dangerous drugs under the Act, but in view of the unsatisfactory features of

the proceedings in the lower Court, I allowed his appeal against sentence. I set aside the sentence of three years' imprisonment and substituted therefor a term of two years' imprisonment with effect from the date of arrest and confirmed the whipping of three strokes imposed by the learned Magistrate. This I did acting in revision of sentence as provided by law.